

Sales of dyed diesel fuel are for non-highway use and are not subject to the motor fuel tax. A legible and conspicuous notice stating "Dyed Diesel Fuel, Non-taxable Use Only, Penalty For Taxable Use" must appear on all shipping papers (including delivery tickets or manifests and excluding material safety data sheets), bills of lading, and invoices accompanying any sale of dyed diesel fuel. See 86 Ill. Adm. Code 500.210. (This is a GIL).

March 16, 2001

Dear Xxxxx:

This letter is in response to your letter to Roland Marr that was received January 19, 2001. Mr. Marr forwarded your letter to this office for a response. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's Web site at www.revenue.state.il.us/legalinformation/regs/part1200.

In your letter, you have stated and made inquiry as follows:

There has been some confusion regarding our pumps in CITY. Please let us know if it is legal to sell off-road diesel out of a controlled retail pump. By controlled, we mean that it is only in service the hours we are open and cannot be accessed without first being authorized by our employee running our retail gas pumps. No one can drive-up to the pump and just start using it. The pump is marked 'Dyed Diesel fuel - Non taxable use only - Penalty for taxable use. Any sales through this pump are reported on our monthly schedules to the Illinois Department of Revenue.

Since we keep playing phone tag, please fax back your response.

The motor fuel tax is imposed on the privilege of operating motor vehicles upon the public highways and recreational-type watercraft upon the waters of this State. Sales of dyed diesel fuel are for non-highway use and are not subject to the motor fuel tax. There are no specific statutory provisions prohibiting sales of dyed diesel fuel from retail pumps. However, such sales must be for non-highway use only. In addition, a legible and conspicuous notice stating "Dyed Diesel Fuel, Non-taxable Use Only, Penalty For Taxable Use" must appear on all shipping papers (including delivery tickets or manifests and excluding material safety data sheets), bills of lading, and invoices accompanying any sale of dyed diesel fuel. See 86 Ill. Adm. Code 500.210.

As noted above, sales of dyed diesel fuel are for non-highway use. Any licensed motor fuel distributor or licensed supplier who sells or attempts to sell dyed diesel fuel for highway use must pay a penalty of \$5,000 for the first occurrence and \$10,000 for the second and subsequent occurrences. 35 ILCS 505/15 (1998 State Bar Edition).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk
Enc.